

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

RODERICK LEON SCOTT, Movant, vs. UNITED STATES OF AMERICA, Respondent.	4:20-CV-04181-KES ORDER GRANTING MOVANT'S MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS ON APPEAL
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Movant, Roderick Leon Scott, moved to vacate, set aside, or correct his sentence under 28 U.S.C. § 2255. Docket 1. This court entered judgment in favor of respondents and granted Scott a certificate of appealability. Dockets 33, 35. Scott has filed a notice of appeal. Docket 43. Scott moves for leave to proceed in forma pauperis on appeal and has included a financial affidavit. Docket 42.

The Eighth Circuit historically has looked to district courts to rule on in forma pauperis motions for appeal and has held that the filing-fee provisions of the PLRA do not apply to habeas corpus actions. *Malave v. Hedrick*, 271 F.3d 1139, 1140 (8th Cir. 2001) (per curiam). To determine whether a habeas petitioner qualifies for in forma pauperis status, the court need only assess (1) whether the petitioner can afford to pay the full filing fee, and (2) whether the petitioner's appeal is taken in "good faith." 28 U.S.C. § 1915(a)(1), (3).

Scott's appeal appears to be taken in good faith. Based on the information in Scott's financial affidavit, this court finds that Scott has

insufficient funds to pay the \$505.00 appellate filing fee. Thus, Scott is granted leave to proceed in forma pauperis on appeal.

IT IS ORDERED:

1. That Scott's motion for leave to proceed in forma pauperis on appeal (Docket 42) is granted.

Dated March 22, 2023.

BY THE COURT:

/s/ Karen E. Schreier

KAREN E. SCHREIER
UNITED STATES DISTRICT JUDGE